

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SALVADOR PAZ-CORTES,

Plaintiff/Counter-Defendant,

v.

EDISON A. VALERIO,

Defendant/Counter-Claimant.

NO: 4:20-CV-5072-TOR

THIRD AMENDED JURY
TRIAL SCHEDULING ORDER

BEFORE THE COURT is the Parties' Stipulated Motion to Continue Trial and Modify the Jury Trial Scheduling Order. ECF No. 22. The motion was submitted for hearing without oral argument. Having reviewed the file and the records therein, the Court is fully informed. For good cause appearing, the motion is **GRANTED** and the Second Amended Jury Trial Scheduling Order, ECF No. 21, is amended as follows:

5. Discovery Cutoff

All discovery, including depositions and perpetuation depositions, shall be completed by **October 17, 2022** ("Discovery Cutoff"). To be timely, discovery

1 requests must be served sufficiently in advance of the deadline to allow for timely
2 response by the cutoff date. The parties shall not file discovery, except those
3 portions necessary to support motions or objections.

4 **6. Dispositive and *Daubert* Motions**

5 All dispositive and *Daubert* motions shall be filed on or before **October 24,**
6 **2022.** Responses and replies to dispositive and *Daubert* motions shall comply with
7 LCivR 7. No supplemental responses or supplemental replies to any dispositive or
8 *Daubert* motion may be filed without Court permission.

9 Dispositive and *Daubert* motions shall be noted for hearing at least **fifty (50)**
10 **days** after the date of filing.

11 **7. Witness/Exhibit Lists**

12 Witness/Exhibit lists shall be filed and served and exhibits made available for
13 inspection or copies provided to the parties on or before **December 5, 2022.**

14 **A. Witness Lists**

15 Witness lists shall include a brief description of the witness, a brief summary
16 of the witness' anticipated testimony, whether the witness will be called as an
17 expert, and any known trial date/time conflicts the witness may have.

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1 **B. Exhibit Lists**

2 Exhibit lists shall include a brief description of the exhibit. All exhibits shall
3 be pre-marked; Plaintiffs' exhibits shall be numbered 1-499; Defendants' exhibits
4 shall be numbered 500-999.

5 **C. Objections**

6 Objections to witnesses/exhibits shall be filed and served on or before
7 **December 12, 2022, AND SHALL BE HEARD AT THE PRETRIAL**
8 **CONFERENCE.** All objections to witnesses shall set forth a legal basis and
9 explanation for the objection. Objections to an exhibit or portion thereof, shall be
10 accompanied by a full and complete copy of the exhibit in question and a short
11 legal explanation for the objection. The party seeking the admission of the witness
12 or exhibit has five (5) days, excluding federal holidays and weekends, to file a
13 response to the opposing party's objection; no reply shall be filed.

14 **8. Deposition Designations**

15 **A. Generally**

16 Designation of substantive, as opposed to impeachment, deposition or prior
17 testimony to be used at trial shall be highlighted in yellow by Plaintiff or in blue by
18 Defendant in a complete transcript of the deposition or prior testimony and served
19 but not filed on or before **December 5, 2022.**

1 **B. Cross-Designations**

2 Cross-designations shall be highlighted in yellow by Plaintiff or in blue by
3 Defendant in the transcript containing the opposing party's initial designations and
4 shall be served but not filed on or before **December 12, 2022**.

5 **C. Objections**

6 All objections to designated deposition or prior testimony and the legal bases
7 for the objections, shall be filed and served on or before **December 19, 2022**. Any
8 designated deposition or prior testimony objected to shall be underlined in black in
9 a complete yellow/blue highlighted copy of the deposition/prior testimony
10 transcript described above. A paper copy of the underlined document shall be filed
11 and served with the objections. The party seeking admission of the testimony has
12 five (5) days, excluding federal holidays and weekends, to file a response; no reply
13 shall be filed. If the deposition was videotaped, and the videotape is to be used at
14 trial, the party seeking to use the videotaped deposition shall indicate the relevant
15 portion on both the written transcript and the videotape. Similarly, objections shall
16 be made on the written transcript as explained above along with the applicable time
17 stamp on the video tape noted. All objections to deposition and prior testimony
18 designations shall be heard and resolved at the pretrial conference with the
19 videotape available for display.
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9. Motions in Limine

All unresolved substantive or evidentiary issues that may foreseeably arise during trial shall be addressed by motions in limine to be filed and served on or before **December 12, 2022**. Such motions will be addressed and resolved at the pretrial conference. However, Motions in Limine may not reargue issues already decided by the Court.

10. Pretrial Order

A. Generally

A joint proposed pretrial order prepared in accordance with LCivR 16(e) shall be filed on or before **January 3, 2023**, and a copy e-mailed, in Microsoft Word format, to “riceorders@waed.uscourts.gov”.

B. Exhibit List

The list of exhibits contained in the Joint Proposed Pretrial Order shall reflect the exhibit marking scheme described above. In preparing the Joint Proposed Pretrial Order, the parties shall confer regarding duplicative exhibits and determine which party will submit such exhibits for trial.

11. Trial Briefs, *Voir Dire*, and Jury Instructions

A. Generally

Trial briefs, requested *voir dire*, and joint proposed jury instructions shall be filed and served on or before **January 3, 2023**.

1 **B. Trial Brief Length**

2 Trial briefs shall not exceed twenty (20) pages without prior court approval.
3 To obtain court approval, a party must file a motion to file an overlength brief,
4 demonstrating good cause why supplemental briefing is necessary.

5 **C. Jury Instructions**

6 The parties' joint proposed jury instructions shall include a table of contents,
7 preliminary instructions, final substantive instructions, and a verdict form. The
8 instructions shall be sequentially numbered and include a citation of authority for
9 each. The instructions shall, at a minimum, include instructions regarding the
10 elements of each claim or defense, the relief sought, and otherwise comply with
11 LCivR 51(a). A party proposing a Jury Instruction that differs from a Ninth Circuit
12 Model Civil Jury Instruction should submit a memorandum analyzing cases to
13 support the modification.

14 **D. Individually Proposed Jury Instructions**

15 If the parties are unable to agree on certain instructions, they are to submit
16 individually proposed jury instructions no later than the date the joint proposed
17 instructions are due. All individually submitted proposed jury instructions must
18 adhere to the format described above and not repeat the joint proposed instructions.

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1 **E. Objections**

2 Any objections to the opposing party's individually submitted proposed
3 instructions must be filed no later than five (5) days, excluding federal holidays
4 and weekends, after the individual proposed instructions were filed. All objections
5 shall set forth the basis for the objection and briefly explain why the instruction in
6 question should not be used or should be altered.

7 **F. Courtesy Copies**

8 Counsel are instructed to e-mail courtesy copies of their **joint** and
9 **individually** proposed jury instructions, in Microsoft Word or text only format, to
10 "riceorders@waed.uscourts.gov".

11 **12. Pretrial Conference**

12 A telephonic pretrial conference will be held on **January 12, 2023, at 9:00**
13 **a.m.** The parties are directed to call the Court's conference line (888) 273-3658
14 five (5) minutes prior to the designated hearing time. When prompted, enter
15 Access Code 2982935 and Security Code 5072. The use of cellular phones is
16 permitted, but not in speaker mode and provided the caller is in an area with
17 adequate cellular service and minimal background noise. Phones shall be muted
18 unless addressing the Court. All counsel trying the case must participate in the
19 telephonic pretrial conference.

1 **13. Trial**


2 The jury trial shall commence on **January 23, 2023, at 8:30 a.m.**, in
3 Richland, Washington. Counsel shall appear at 8:30 a.m. on the first day of trial to
4 address any pending pretrial matters. Jury selection will begin promptly at 9:00
5 a.m.

6 IT IS SO ORDERED.

7 The District Court Clerk is directed to enter this Order and provide copies to
8 counsel.

9 DATED March 15, 2022.



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THOMAS O. RICE
United States District Judge

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